

Apr 10, 2018

STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
18-20289-CR-ALTONAGA/GOODMAN

CASE NO. _____

26 U.S.C. § 7201

26 U.S.C. § 7203

26 U.S.C. § 7202

UNITED STATES OF AMERICA

v.

DARRYL K. SHARPTON,

Defendant.

INDICTMENT

The Grand Jury Charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

1. **DARRYL K. SHARPTON**, a certified public accountant with more than twenty-eight years of public accounting and consulting experience, resided in and around Miami, Florida, in and around Miami-Dade County, within the Southern District of Florida.

2. The Sharpton Group, P.A., formerly known as Sharpton, Brunson & Company, P.A., (hereinafter "The Sharpton Group") was incorporated in the State of Florida in 1984 and specialized in financial and management consulting, audit and attestation, and tax and wealth planning. **DARRYL K. SHARPTON** was the founder and at all times owned more than 50% of the interest in The Sharpton Group.

3. **DARRYL K. SHARPTON** reported his income from The Sharpton Group for tax years 2004 through 2008, and 2010, on Forms 1040, U.S. Individual Income Tax Returns ("Forms

1040”), but failed to pay the reported tax due. The Internal Revenue Service (“IRS”) conducted an audit and assessed additional taxes against **DARRYL K. SHARPTON**. The IRS issued levies and liens in an effort to collect **DARRYL K. SHARPTON**’s unpaid tax liabilities.

4. For tax years 2009, and 2011 through 2016, **DARRYL K. SHARPTON** failed to file Forms 1040 with the IRS.

5. Pursuant to the Internal Revenue Code and associated statutes and regulations, employers are required to withhold from employees’ gross pay Federal Insurance Contribution Act (“FICA”) taxes, which represent Social Security and Medicare taxes, and federal income taxes. Collectively, these withheld taxes are referred to as “payroll taxes.”

6. Employers are required to file, one month after the conclusion of the calendar quarter, an Employer’s Quarterly Federal Tax Return, Form 941 (“Form 941”), setting forth the total amount of income tax withheld, the total amount of Social Security and Medicare taxes due, and the total tax deposits.

7. A person is responsible for collecting, accounting for, and paying over the payroll taxes if he or she has the authority required to exercise significant control over the employer’s financial affairs, regardless of whether the individual exercised such control in fact. More than one person may be considered a “responsible person” for the purpose of collecting, accounting for, and paying over an employer’s payroll taxes.

8. **DARRYL K. SHARPTON** was a responsible person at The Sharpton Group, that is, he had the corporate responsibility to collect, truthfully account for, and pay over The Sharpton Group’s payroll taxes. He exercised decision-making authority over The Sharpton Group’s financial affairs, hired and fired employees, had signature authority on The Sharpton Group’s bank

accounts, and was responsible for the payment of The Sharpton Group's tax obligations, including the payment of payroll taxes.

9. For the quarters ending December 31, 2012 through December 31, 2013, and December 31, 2014 through December 31, 2017, **DARRYL K. SHARPTON** withheld payroll taxes from his employees' paychecks but failed to fully remit to the IRS the withheld payroll taxes.

10. For the quarters ending March 31, 2015, June 30, 2015, September 30, 2015, June 30, 2016, December 31, 2016, March 31, 2017, September 30, 2017, and December 31, 2017, **DARRYL K. SHARPTON** failed to file Forms 941 for The Sharpton Group.

11. If a responsible person willfully fails to pay over the payroll taxes, the IRS may impose a penalty equal to the amount of the payroll taxes on each responsible person, individually. This penalty is known as the Trust Fund Recovery Penalty ("TFRP"). The IRS assessed TFRPs against **DARRYL K. SHARPTON** as a responsible person of The Sharpton Group, who willfully failed to pay over payroll taxes to the IRS.

12. The IRS was an agency of the United States Department of the Treasury responsible for administering the tax laws of the United States and collecting taxes owed to the United States.

COUNT 1
TAX EVASION
(26 U.S.C. § 7201)

1. The factual allegations contained in Paragraphs 1 through 3 and 12 of the General Allegations Section of this Indictment are re-alleged and incorporated herein.

2. From in and around June 2008 through in and around December 2016, in the Southern District of Florida, and elsewhere, the defendant,

DARRYL K. SHARPTON

did willfully attempt to evade and defeat the payment of substantial income tax due and owing by

him to the United States of America for the calendar years 2004 through 2008 and 2010, by committing the following affirmative acts, among others:

- (a) removing himself from The Sharpton Group's payroll after the IRS issued a levy against his wages in 2007;
- (b) after adding himself back to The Sharpton Group's payroll, he manipulated his Form W-2 and wage statements to show a substantial amount of payroll taxes were withheld from his paycheck when he knew those amounts were not being turned over to the IRS;
- (c) removing himself from The Sharpton Group's payroll after the IRS conducted additional collection activity in 2013;
- (d) paying his personal expenses from The Sharpton Group's corporate bank account; and
- (e) falsely stating to an IRS Revenue Officer that he was not paying his personal expenses from The Sharpton Group's bank account.

In violation of Title 26, United States Code, Section 7201, and 18 U.S.C. § 2.

COUNTS 2-7
FAILURE TO FILE
(26 U.S.C. §7203)

1. The factual allegations contained in Paragraphs 1, 2, 4 and 12 of the General Allegations Section of this Indictment are re-alleged and incorporated herein.

2. For each of the years set forth in the table below, **DARRYL K. SHARPTON** and his spouse had and received gross income in excess of the minimum gross income threshold as stated below. Well knowing and believing all the foregoing, **SHARPTON** did willfully fail, on or

about the dates set forth below, in the Southern District of Florida and elsewhere, to make an income tax return, with each year constituting a separate count of the Indictment:

Count	Tax Year	Date of Offense	Minimum Gross Income for Filing Requirement
2	2011	April 17, 2012	\$19,000
3	2012	April 15, 2013	\$19,500
4	2013	April 15, 2014	\$20,000
5	2014	April 15, 2015	\$20,300
6	2015	April 18, 2016	\$20,600
7	2016	April 18, 2017	\$20,700

All in violation of Title 26, United States Code, Section §7203 and Title 18, United States Code, § 2.

COUNTS 8-25
FAILURE TO PAY OVER AND TIMELY ACCOUNT
FOR PAYROLL TAXES
(26 U.S.C § 7202)

1. The factual allegations contained in Paragraphs 1, 2 and 5 through 12 of the General Allegations Section of this Indictment are re-alleged and incorporated herein.
2. On or about the due dates listed below, in the Southern District of Florida, **DARRYL K. SHARPTON** did willfully fail to timely account for and fully pay over to the IRS the federal income taxes and FICA taxes withheld and due and owing to the United States on behalf of the employees of The Sharpton Group, in the approximate amounts for each of the quarters as set forth in the table below, with each calendar quarter constituting a separate count of the Indictment:


COUNT	QUARTER ENDING	DUE DATE OF FORM 941	PAYROLL TAXES WITHHELD
8	December 31, 2012	January 31, 2013	\$116,932
9	March 31, 2013	April 30, 2013	\$127,346
10	June 30, 2013	July 31, 2013	\$125,106
11	September 30, 2013	October 31, 2013	\$110,677
12	December 31, 2013	January 31, 2014	\$109,525
13	December 31, 2014	January 31, 2015	\$52,940
14	March 31, 2015	April 30, 2015	\$41,868

COUNT	QUARTER ENDING	DUE DATE OF FORM 941	PAYROLL TAXES WITHHELD
15	June 30, 2015	July 31, 2015	\$34,092
16	September 30, 2015	October 31, 2015	\$33,120
17	December 31, 2015	January 31, 2016	\$30,507
18	March 31, 2016	April 30, 2016	\$16,886
19	June 30, 2016	July 31, 2016	\$17,607
20	September 30, 2016	October 31, 2016	\$16,608
21	December 31, 2016	January 31, 2017	\$18,455
22	March 31, 2017	April 30, 2017	\$28,211
23	June 30, 2017	July 31, 2017	\$34,819
24	September 30, 2017	October 31, 2017	\$32,193
25	December 31, 2017	January 31, 2018	\$27,966

All in violation of Title 26, United States Code, Section §7202 and Title 18, United States Code, § 2.

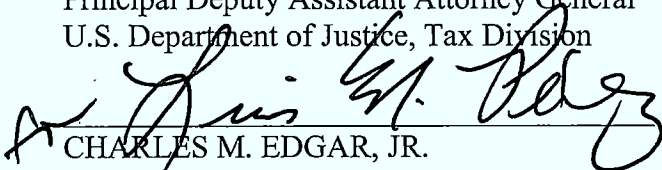
A TRUE BILL

For


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 UNITED STATES ATTORNEY


 CHRISTOPHER J. CLARK
 ASSISTANT UNITED STATES ATTORNEY

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 Principal Deputy Assistant Attorney General
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UNITED STATES OF AMERICA

CASE NO. _____

vs.

CERTIFICATE OF TRIAL ATTORNEY*

DARRYL K. SHARPTON,

Defendant.

Superseding Case Information:

Court Division: (Select One)

X Miami Key West
 FTL WPB FTP

New Defendant(s) Yes No
Number of New Defendants
Total number of counts

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
3. Interpreter: (Yes or No) No
List language and/or dialect English
4. This case will take 5 days for the parties to try.
5. Please check appropriate category and type of offense listed below:

(Check only one)

(Check only one)

I	0 to 5 days	<u> X </u>	Petty	<u> </u>
II	6 to 10 days	<u> </u>	Minor	<u> </u>
III	11 to 20 days	<u> </u>	Misdem.	<u> </u>
IV	21 to 60 days	<u> </u>	Felony	<u> X </u>
V	61 days and over	<u> </u>		

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes:

Judge:

Case No. _____

(Attach copy of dispositive order)

Has a complaint been filed in this matter?

(Yes or No) No

If yes:

Magistrate Case No. _____

Related Miscellaneous numbers: _____

Defendant(s) in federal custody as of _____

Defendant(s) in state custody as of _____

Rule 20 from the _____ District of _____

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes X No

8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? Yes X No



Christopher J. Clark
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: DARRYL K. SHARPTON

Case No: _____

Count #: 1

Tax Evasion

Title 26, United States Code, Section 7201

***Max. Penalty:** Five (5) years imprisonment

Counts #: 2-7

Failure to File

Title 26, United States Code, Section 7203

***Max. Penalty:** One (1) year imprisonment as to each count

Counts #: 8-25

Failure to Pay Over and Timely Account for Payroll Taxes

Title 26, United States Code, Section 7202

***Max. Penalty:** Five (5) years imprisonment as to each count

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**